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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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04/02/2007

Hans-Georg Brauer

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EXAMINER

KELLER, MICHAEL J

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

07/17/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/594,849	Applicant(s) BRAUER ET AL.	
	Examiner Michael J. Keller	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/29/2006; 04/02/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant is reminded that all changes to application must be shown. At least "'housing' in claim 1, line 1, was changed to correct a misspelling, but the change is not indicated as required. All claims should be carefully reviewed, and any other changes that were made should be clearly pointed out to examiner.

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement filed 09/29/2006 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because NPL document "Bayer Material Science" is cited in the IDS, but the copy provided by applicant does not contain any relevant information. The document states that "the requested address does not exist". It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 7, 14 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 7, 14 and 16 recite "the second area exhibits a second axial height matching the height of the cable drum for the manual window lift drive". However, the cable drum 118 described in the specification and shown in Fig. 2 has a height which is greater than the height of the second area 110. The cable drum 118 even extends outside of the drum housing 104. How can the height of the cable drum match the height of the second area if the height of the cable drum is greater than the height of the entire drum housing?

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-7 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 1 recites the limitation "the mounting" in lines 4 and 6. There is insufficient antecedent basis for this limitation in the claim. Examiner assumes that "the mounting" refers to the "mounting area" recited in line 2.

8. Regarding claim 13, the phrases "e.g." and "preferably" render the claim indefinite because it is unclear whether the limitation(s) following the phrases are part of the claimed invention. See MPEP § 2173.05(d). Further, a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 13 recites the broad recitation 20-40 mm, and the claim also recites 25-35 mm, which is the narrower statement of the range/limitation.

9. Claim 10, line 2-3,—to what exactly is “for a brake housing...” referring to. Is it describing the motor or the fastening elements?

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. **Claims 1-6, 8-13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Velthaus et al. (US 6,574,922).**

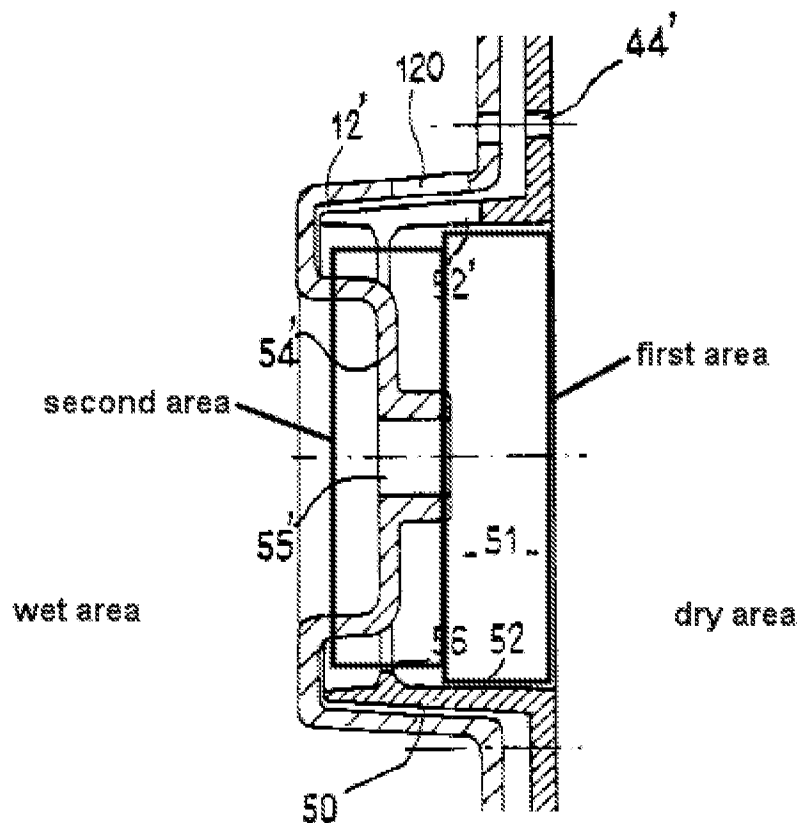
12. Regarding **claim 1**, Velthaus discloses a drum housing comprising: a mounting area; a first area of the mounting area having a first diameter; and a second area of the mounting area having a second diameter as shown in the figure below. Examiner notes that no cable drum has been claimed, and the diameters of the first and second areas are sufficient for mounting a cable drum which has been properly sized to fit within the areas.

13. Regarding **claim 2**, a view from the vehicle interior is shown in Fig. 1.

14. Regarding **claim 3**, fastening elements 42 are shown in Fig. 2.

15. Regarding **claims 4 and 5**, a slide bearing 54' is provided in the drum housing as shown in Fig. 3.

16. Regarding **claim 6**, the first diameter is greater than the second diameter as shown in the figure below.



17. Regarding **claim 8**, Velthaus discloses a door module comprising: a carrier part 20; a drum housing mounting area; a first area of the mounting area having a first diameter; and a second area of the mounting area having a second diameter as shown in the figure above. Examiner notes that no cable drum has been claimed, and the diameters of the first and second areas are sufficient for mounting a cable drum which has been properly sized to fit within the areas.

18. Regarding **claim 9**, the mounting area is limited by a drum housing 50 that forms a structural unit with the carrier part. Examiner notes that all parts of the device disclosed by Velthaus form a structural unit when they are connected together.

19. Regarding **claim 10**, fastening elements 42 are shown in Fig. 2.

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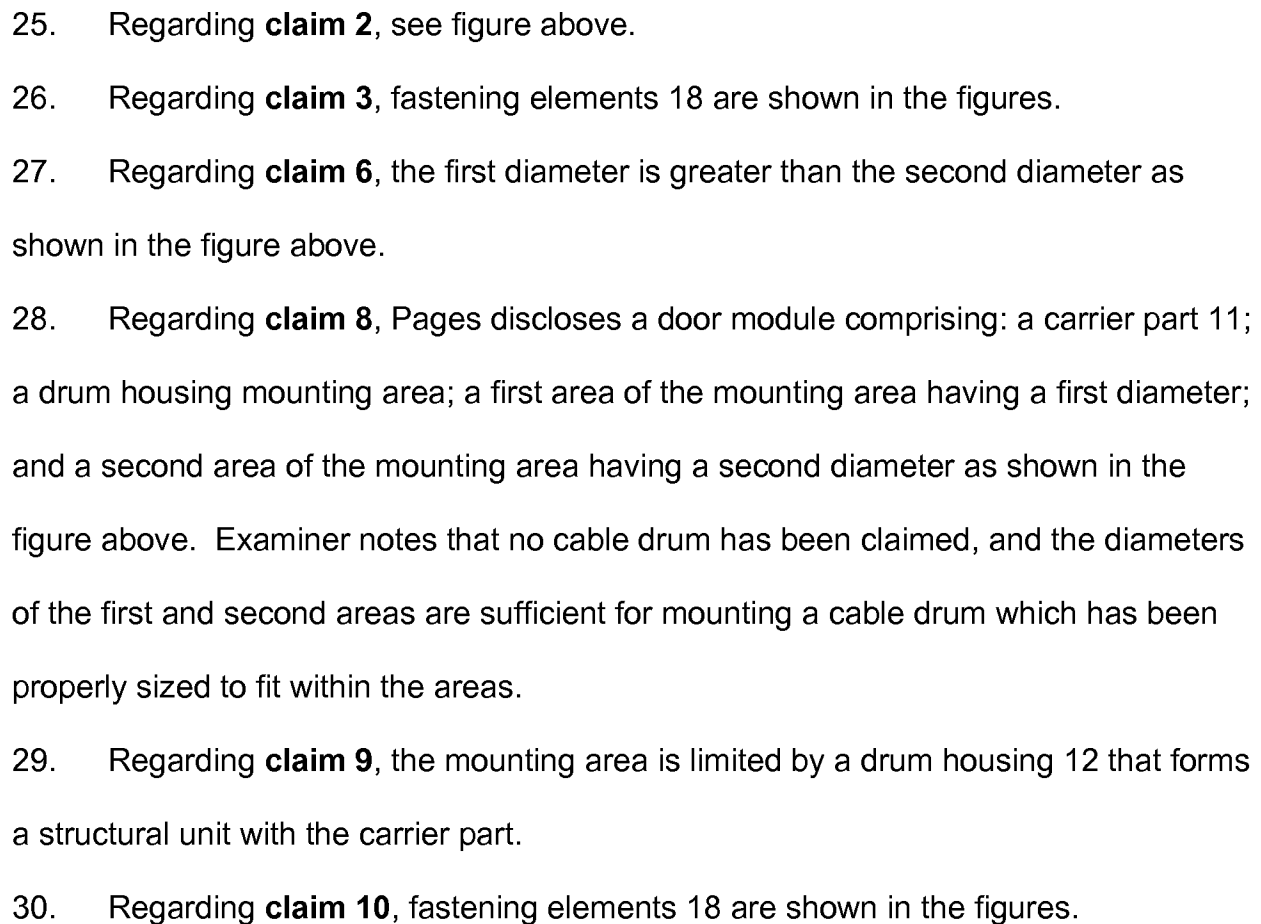
20. Regarding **claims 11 and 12**, the carrier part divides the door interior into a wet area and a dry area as shown in the figure above, and the second area faces the wet area.

21. Regarding **claim 13**, the first diameter is greater than the second diameter as shown in the figure above.

22. Regarding **claim 15**, Velthaus discloses a door of a motor vehicle comprising: a door module (Fig. 1); a drum housing 50 having a mounting area; a first area of the mounting area having a first diameter; and a second area of the mounting area having a second diameter as shown in the figure above. Examiner notes that no cable drum has been claimed, and the diameters of the first and second areas are sufficient for mounting a cable drum which has been properly sized to fit within the areas.

23. **Claims 1-3, 6 and 8-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Pages (US 6,253,491).**

24. Regarding **claim 1**, Pages discloses a drum housing comprising: a mounting area; a first area of the mounting area having a first diameter; and a second area of the mounting area having a second diameter as shown in the figure below. Examiner notes that no cable drum has been claimed, and the diameters of the first and second areas are sufficient for mounting a cable drum which has been properly sized to fit within the areas.



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31. Regarding **claims 11 and 12**, the carrier part divides the door interior into a wet area and a dry area as shown in the figure above, and the second area faces the wet area.

32. Regarding **claim 13**, the first diameter is greater than the second diameter as shown in the figure above.

Claim Rejections - 35 USC § 103

33. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

34. **Claims 7, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pages (US 6,253,491).**

35. Although the exact dimensions and relative proportions of the first and second areas are not disclosed, they are indicated on the drawings, even though not marked to scale, and it would have been obvious to one of ordinary skill in the art, at the time of the invention, to form the second area with a greater height than the first area, in order to accommodate the size of the cable drum.

Conclusion

36. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The documents cited on form PTO-892 disclose drum housings similar to that of Applicant's invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Keller whose telephone number is 571-270-5219. The examiner can normally be reached on Monday - Friday 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KATHERINE W MITCHELL/
Supervisory Patent Examiner, Art
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/M. J. K./
Examiner, Art Unit 3634